

**REMARKS**

Applicant thanks the Office for the attention accorded the present Application in the Office Action of May 31, 2007. Claims 1-34 are pending in this application. Reconsideration in view of the following remarks is respectfully requested.

Applicant does not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the claims in a subsequent patent application that claims priority to the instant application.

**Claim Rejections**

Claims 1-14, 18-31, and 34 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ohata et al. (US 6,469,978) in view of Sasaki (US 2003/0033475) further considered with Tobita et al. (US 6,275,436). Claims 16 and 32 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ohata et al. in view of Sasaki further considered with Tobita et al. and Evans et al. (US 6,311,060). Claims 17 and 33 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ohata et al. in view of Sasaki further considered with Tobita et al. and Official Notice. Claim 15 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ohata et al. in view of Sasaki further considered with Tobita et al. and Nakatani et al. (US 2002/0114614).

**Claim Amendments**

By this Amendment, Applicant has canceled claims 10 and 28 and has amended claims 1-3, 5, 11, 13, 19-21, 23, 29, and 31 of this application to better protect what Applicant regards as the invention. Claims 1 and 19 have also been amended to include the subject matter of canceled claims 10 and 28, respectively. It is believed that the amended claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

**35 U.S.C. §103(a) rejections based on Ohata, Sasaki, and Tobita**

As recited in the amended claim 1 of the present invention, "***before the formatting of the optical recording medium is finished, if a host computer transmits a data reading command to the optical recording device, the optical recording device inspects the corresponding flag, according to the address in the data reading command, to judge whether the packet in the optical recording medium has not been formatted and not recorded any digital data;*** if the packet has not been formatted and not recorded, the optical recording device then ***transmits a unformatted message to the host computer.***" Claim 1 (*Emphasis added*).

As noted above, the above limitations originate from cancelled claim 10. Regarding claim 10, the Examiner has stated that FIG. 3 of Ohata teaches "***scanning the prescribed units for errors according to address information*** then send the information back to be written in the management table." (*Emphasis*

*Added).* In response, Applicant respectfully submits that the Examiner has misinterpreted the teachings of Ohata et al. and/or Applicant's invention. First, none of the paragraphs describing FIG. 3 in Ohata et al. teach "scanning for errors according to address information." Second, the original claim 10 of the invention is irrelevant to "scanning for errors according to address information." Third, all the paragraphs describing FIG. 3 in Ohata do not teach the features of Applicant's original claim 10, either.

Regarding address information in commands, Ohata et al. only teach that "the logical address of a sector to be read or written, sent from the host computer can be converted into a physical address with reference to the defect management table in the RAM 7." Col. 10, lines 37-47. In other words, the defect management table in Ohata et al. is used as a reference for converting addresses. Clearly, "converting addresses" is different from inspecting the corresponding flag, according to the address, to judge the status of the packet. Neither FIG. 3 of Ohata et al. nor its relative descriptions teach "inspecting the corresponding flag, according to the address, to judge whether the packet in the optical recording medium has not been formatted and not recorded any digital data" as recited in Applicant's claims.

Furthermore, as described in the specification of Ohata et al., "FIG. 3 shows the physical format information in the control data area of the optical disk medium." Col. 7, lines 55-57. Also, as described in Ohata et al., "***when a disk is loaded***, the physical format information section in the control data area is read." Col. 10, lines 29-30. (*Emphasis Added*). It can thus be seen that the control data area in FIG. 3 of Ohata et al. is inspected when a disk is loaded. However, in Applicant's claim 1, ***when a host computer transmits a data reading command to the optical***

**recording device before the formatting of the optical recording medium is finished,** the flag in the format recording table is inspected. Clearly, the inspecting step of FIG. 3 of Ohata et al. is different from that in the Applicant's claim 1. More specifically, FIG. 3 of Ohata et al. does not teach the inspecting step in Applicant's claim 1.

Moreover, all the paragraphs describing FIG. 3 in Ohata et al. do not teach "transmitting an **unformatted message** to the **host computer**," either. (*Emphasis added*). Based on the arguments above, Applicant submits that Ohata, Sasaki, Tobita, or their combination do not render claim 1 obvious.

Similarly, claim 19 of the invention also recites "before finishing the formatting of the optical recording medium, if a host computer transmits a data reading command to the optical recording device, the inspecting and judging module will inspect the flag, according to the address in the data reading command, to judge whether the packet in the optical recording medium is not formatted and not recorded any digital data; if the packet has not been formatted and not recorded, the inspecting and judging module then transmits an unformatted message to the host computer." As a result, the arguments set forth above regarding claim 1 also apply to claim 19. Applicant respectfully requests withdrawal of the rejections of claims 1 and 19.

Applicant submits that neither Sasaki nor Tobito et al. teach or suggest the above-noted deficiencies of the primary reference to Ohata et al. It follows that even if Ohata et al., Sasaki, and Tobito were combined, as suggested by the Examiner, the resultant combination does not suggest the method recited in claim 1 or the system recited in claim 19. Furthermore, Applicant submits that neither Nakatani et

al., Evans et al., or Office Notice provide the deficiencies of the above-noted references.

Applicant submits that the dependent claims 2-9, 11-18, 20-27, and 29-34 not specifically addressed herein are allowable for the reasons discussed in pertinent portions associated with their independent claims 1 and 19, as well as for their own additional features. Applicant respectfully requests withdrawal of the rejections. Reconsideration of claims 1-9, 11-27, and 29-34 is respectfully requested.

Applicant also maintains that there is not the slightest suggestion in the cited art that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Furthermore, the cited art neither discloses, or suggests a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's method or claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's amended claims.

**Summary**

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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